

Serial No. 09/967,218

Docket No.: KCC-15,529

REMARKS

Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1 and 4-23 are pending, with Claims 12-19 withdrawn from consideration.

Withdrawal of Finality of the Previous Office Action

Applicants thank the Examiner for withdrawing the finality of the previous Office Action. Applicants respectfully submit that *this Amendment should not require further search and/or consideration* because the independent claims now specify that the impact modifier is EPDM, rather than the Markush group of impact modifiers, and the independent claims now recite a "softness" limitation that was previously argued by Applicants, and the other amendments to the independent claims merely provide more specific information about the previously existing claim limitations. Furthermore, *this Amendment places the application in better form for appeal by materially reducing or simplifying the issues for appeal*, particularly by virtue of limiting the impact modifier to just one member of the Markush group and providing more specific information on the "polypropylene," "elastomeric," and "softness" limitations. Thus, Applicants respectfully submit that if the Examiner does not find Applicants' arguments persuasive, this Amendment should still be entered for purposes of appeal.

Amendments to the Claims

Claims 1, 4-11, and 20-23 have been examined, with no claims being allowed. Applicants have amended Claims 1 and 20 to specify that the fibers are strengthened polypropylene fibers (Claim 1) or modified polypropylene fibers (Claim 20), which is consistent with the existing limitations of the respective claims. Applicants have further amended Claims 1 and 20 by specifying suitable forms of polypropylene, consistent with the definition of "polypropylene" on page 6, lines 21-22, of the subject application. Applicants have also amended Claims 1 and 20 by specifying that the impact modifier is ethylene-propylene-diene-monomer, and deleting all other members of the Markush group. Additionally, Applicants have amended Claims 1

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and 20 to specify parameters of the elastomeric properties of the EPDM, consistent with the definition of "elastomeric" on page 4, lines 19-21, of the subject application. Finally, Applicants have amended Claims 1 and 20 to include the limitation of the strengthened/modified polypropylene fibers being softer than comparable non-strengthened/non-modified polypropylene fibers as determined by a Cup Crush Test, with support for this limitation provided in Tables 2, 5 and 6 of the Examples on pages 15-19 of the subject application.

Applicants respectfully request cancellation of Claims 4 and 12-19.

No new matter has been added by this Amendment. No additional fee is due for this Amendment because the number of independent claims has been reduced and the total number of claims has also been reduced.

Claim Rejections - 35 U.S.C. §103

The rejection of Claims 1, 4-11, and 20-23 under 35 U.S.C. §103(a) as being unpatentable over Gutweiler et al. (U.S. Patent No. 5,514,752, hereinafter "Gutweiler") is respectfully traversed.

Applicants maintain that Gutweiler fails to disclose or suggest polypropylene fibers *that have been strengthened with an ethylene-propylene-diene-monomer impact modifier*, wherein the impact modifier has elastomeric properties and accounts for 1-25% or 0.59-4% by weight of the fiber, as recited in Applicants' Claims 1 and 20. Furthermore, the inclusion of polyvinyl butyral, as required by Gutweiler, would not achieve the softness of Applicants' claimed invention.

As explained previously by Applicants, the basic and novel characteristics of Applicants' claimed impact modified fibers are the lack of melt elasticity combined with plasticization for improved fabric softness. More particularly, the lack of melt elasticity contributes to softness by reducing roping and entanglement of fibers, while the plasticization effect contributes to softness by reducing the hardness and brittleness of fibers. A prior art additive that undermines or defeats this combination of properties would not anticipate or render obvious Applicants' claimed invention.

While the impact-modified polypropylene fibers of Applicants' invention are characterized by improved softness, a primary objective of Gutweiler et al. is to

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provide polyvinyl butyral-containing compositions having high rigidity and hardness. The stated features of high rigidity and hardness would plainly defeat, and/or materially affect, the improved fabric softness achieved by Applicants. Since Gutweiler strives to achieve a completely different result, i.e., hardness, and achieves this hardness through the inclusion of polyvinyl butyral in a polypropylene composition, there is no suggestion or motivation in Gutweiler to modify the composition in Gutweiler to achieve Applicants' claimed invention.

As Applicants have previously pointed out, a case on point is In Re De Lajarte, 337 F.2d 870, 143 USPQ 256 (CCPA, 1964), in which the Court stated that the Examiner has the burden of establishing a motivation for modifying the prior art reference to make the claimed invention. Similar to the fact pattern in In Re De Lajarte, the Examiner in the instant prosecution has failed to suggest any reason for omitting one of the primary elements (i.e., polyvinyl butyral) from the prior art composition. Furthermore, the Examiner has produced no evidence that the impact-modified polypropylene of Gutweiler possesses improved softness, which is a primary feature of Applicants' claimed composition. Gutweiler teaches that the opposite is true, and the composition disclosed in Gutweiler is hard and brittle.

The Examiner refers to the prior art section in Col. 1, lines 12-16, in which Gutweiler mentions that high-impact polypropylene *molding compositions* are known in principle, and that they are prepared by mixing polypropylene and a rubber, such as, for example, EPDM. Gutweiler fails to disclose or suggest any strengthened *fibers* or *nonwoven fabrics* comprising strengthened fibers in the prior art having the composition and properties of Applicants' claimed fibers.

For at least the reasons given above, Applicants respectfully submit that the teachings of Gutweiler fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

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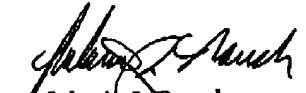
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Conclusion

Applicants believe that this case is now in condition for allowance. If the Examiner feels that any issues remain, then Applicants' undersigned attorney would like to discuss the case with the Examiner. The undersigned can be reached at (847) 490-1400.

Respectfully submitted,


Melanie I. Rauch
Registration No. 40,924

Pauley Petersen & Erickson
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60195
(847) 490-1400
FAX (847) 490-1403

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